

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.) No. 4:05-CR-521 CAS
)
 ROBERT BONE,)
)
 Defendant.)

MEMORANDUM AND ORDER

This matter is before the Court on the government's motion to amend the indictment in this case to change the misnomer of defendant Robert Bone to Bob Bone, defendant's correct legal name. The motion states that defendant has no objection to the proposed amendment to the indictment.

The general rule is that a court may not amend an indictment, but the rule is inapplicable when the change is one of form only. United States v. Mason, 869 F.2d 414, 417 (8th Cir. 1989) (citations omitted). "Misnomers generally are mistakes of form that may be corrected by amending the indictment." Id. (cited cases omitted). "Furthermore, a finding of prejudice to the defendant must be present before an amendment is held impermissible." Id. (quoting United States v. Burnett, 582 F.2d 436, 438 (8th Cir. 1976)).

The motion in this case seeks to change a misnomer by amending the defendant Bone's first name from Robert to Bob. The proposed amendment does not change the substance of the indictment. There is no prejudice to defendant, as the government indicates that he has given his consent to the proposed amendment. The government's motion will therefore be granted.

Accordingly,

IT IS HEREBY ORDERED that the government's motion to amend the indictment is **GRANTED**. [Doc. 152]

IT IS FURTHER ORDERED that the indictment in this case is amended to correct the defendant's name from Robert Bone to Bob Bone.

IT IS FURTHER ORDERED that the Clerk of the Court shall amend the caption of the case in Court records to indicate that the correct caption is United States of America v. Bob Bone. The parties shall use the corrected caption on all future filings.



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 24th day of February, 2006.